

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION

WILLIAM RAY WEAVER, )

Petitioner )

v. )

GRANTT CULLIVER, WARDEN, )

and THE ATTORNEY GENERAL )

OF THE STATE OF ALABAMA, )

Respondents )

Case No. 4:06-cv-04877-LSC-HGD

**ORDER**

On March 14, 2008, the magistrate judge's report and recommendation was entered and the parties were allowed therein eleven (11) days in which to file objections to the recommendations made by the magistrate judge. On March 25, 2008, respondents filed objections to the magistrate judge's report and recommendation. Petitioner, after obtaining an extension of time, filed objections to the magistrate judge's report and recommendation on April 7, 2008.

After careful consideration of the record in this case, the magistrate judge's report and recommendation, as well as both the respondent's and petitioner's objections thereto, the court hereby ADOPTS the report of the magistrate judge. The

court further ACCEPTS the recommendations of the magistrate judge and it is, therefore,

ORDERED, ADJUDGED and DECREED that the petition for writ of habeas corpus in this action be and the same hereby is DENIED as to Claims 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14 and 15. Claim 6 is REFERRED to the magistrate judge to conduct an evidentiary hearing and prepare a supplemental report and recommendation as to that claim. Stated simply, the petitioner alleges that he told his attorneys that he wanted to testify and they did not call him to the stand before resting his defense. The petitioner's attorney has testified through an affidavit that the petitioner himself made the decision not to testify. Thus, the two versions are in conflict, and there is nothing to indicate that the state trial judge witnessed the discussions between the petitioner and his then attorneys or actually received any in-court testimony to resolve the dispute.

Done this 24<sup>th</sup> day of April 2008.

  
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L. SCOTT COOGLER  
UNITED STATES DISTRICT JUDGE

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